



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION

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WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON JERSEY CITY, NEW JERSEY'S AMENDED REQUEST FOR WAIVER TO OPERATE A PUBLIC SAFETY RADIO SYSTEM UTILIZING TEN UHF PAGING CONTROL FREQUENCIES

Comment Date: October 22, 2002

Reply Date: October 29, 2002

On August 21, 2002, the Jersey City, New Jersey, Police Department ("JCPD") filed an amended application to operate a public safety radio system, in the Jersey City, New Jersey area, utilizing the following ten UHF paging control frequencies: 470.0500/473.1750 MHz, 470.2500/473.2000 MHz, 470.2750/473.2750 MHz, 476.2750/479.2750 MHz, and 476.0875/479.2250 MHz.¹ Concurrently, JCPD submitted an amended request for waiver of Sections 22.501, 22.621 and 90.303 of the Commission's Rules.² JCPD seeks its waiver pursuant to Section 337(c) of the Communications Act, as amended (the Act)³, and Section 1.925 of the Commission's Rules.⁴

Section 337(c) of the Act provides that the Commission must waive any rules necessary to authorize entities providing public safety services to operate on unassigned non-public safety spectrum, if the Commission makes five specific findings:

- 1) public safety spectrum is not immediately available;
- 2) the proposed use will not cause harmful interference to protected spectrum users;
- 3) public safety use of the unassigned frequencies is consistent with public safety spectrum allocations in the geographic area;
- 4) the unassigned frequencies have been allocated for non-public safety use for more than two years; and
- 5) grant of the application is consistent with the public interest.⁵

¹ See File No. 0000472841. This application and waiver request supersedes the earlier filed applications and waiver requests filed by JCPD on May 24, 2001 and May 16, 2002. JCPD's current proposal differs from its May 24, 2001 proposal by adding frequencies 473.2000 MHz, 476.0875 MHz, and 479.2250 MHz and deleting frequencies 470.0250/473.1500 MHz, 470.1250/473.1250 MHz, 473.2500 MHz, 476.0250/479.0250 MHz, 476.0750/479.0750 MHz and 476.2500/479.2500 MHz. See Wireless Telecommunications Bureau Seeks Comment on Request for Waiver by the Jersey City, New Jersey, Police Department to Obtain a Public Safety License for Eighteen UHF Paging Control Frequencies, *Public Notice*, 16 FCC Rcd 12472 (WTB PSPWD 2001).

² 47 C.F.R. §§ 22.501, 22.621 90.303. JCPD also requests waiver of any other rules necessary for the grant of its application.

³ 47 U.S.C. § 337(c).

⁴ 47 C.F.R. § 1.925.

⁵ See 47 U.S.C. § 337(c).

Public safety services are services whose principal purpose is to protect the safety of life, health, or property, provided by governmental entities whose primary mission is the provision of such services, or by non-governmental entities authorized by such a governmental entity, and that are not made commercially available to the public.⁶

Section 1.925(c) of the Commission's Rules provides that a waiver of the Commission's Rules may be granted if it is shown that the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or in view of the unique or unusual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest or if the applicant has no reasonable alternative.⁷

JCPD currently operates a twenty-five year old public safety communications system consisting of the Police Department shared six-channels UHF 450-470 MHz system and the Fire and Emergency Service's three-channel system in the 450-470 MHz band. JCPD contends that this system is aging and that the system's efficiency is further degraded by Jersey City's geographical proximity to major metropolitan areas (e.g. New York City and Newark) and their attendant radio congestion. JCPD states that its system is straining under its average annual volume of three million transmissions—ninety percent of which are emergency transmissions. JCPD contends that this volume, coupled with the excessive channel loading and dead spots caused by radio congestion have resulted in several situations where this degradation has put lives at risk. JCPD concludes that unless it can build a trunked radio system using these ten UHF paging control channels, and its existing frequencies, the degradation of its public safety communications system will cause significant disruption to its police and fire services.

Interested parties may file comments on the Waiver Request on or before **October 22, 2002**. Parties interested in submitting reply comments must do so on or before **October 29, 2002**. All comments should reference the subject waiver request including the DA number of this *Public Notice*, and should be filed with the Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., TW-325, Washington, D.C. 20054. A copy of each filing should be sent to (1) Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, D.C. 20554, (202) 863-2893; (2) Roberto Mussenden, Esq., Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, Policy and Rules Branch, 445 Twelfth Street, SW, Room 3-C425, Washington, D.C. 20554; and (3) Maria Ringold, Federal Communications Commission, Consumer and Governmental Affairs Bureau, Reference Information Center, 445 Twelfth Street, S.W., Room CY-B529, Washington, D.C. 20554.

The address for FCC locations should be used only for documents filed by United States Postal Service first-class mail, Express Mail, and Priority Mail. Hand-delivered or messenger-delivered documents for the Commission's Secretary are accepted only by the Commission's contractor, Vistrionix, Inc., at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering 236 Massachusetts Avenue, N.E. Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service Express Mail and Priority Mail) should be addressed for delivery to 9300 East Hampton Drive, Capitol Heights, MD 20743. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. *See FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, Public Notice, 16 FCC Rcd 22165 (2001).*

⁶ See 47 U.S.C. § 337(f).

⁷ 47 C.F.R. § 1.925(c).

The full text of the Waiver Request, comments and reply comments will be available for inspection and duplication during regular business hours in the FCC Reference Information Center (RIC) of the Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. Copies also may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 863-2893, facsimile (202) 863-2898, or via e-mail qualexint@aol.com. For further information regarding the public reference file for this Waiver Request, contact Maria Ringold, Chief, Wireless Branch, RIC, (202) 418-1355.

Unless otherwise provided, requests for waiver of the Commission's Rules are subject to treatment by the Commission as restricted proceedings for *ex parte* purposes under Section 1.1208 of the Commission's Rules, 47 C.F.R. § 1.1208. Because of the policy implications and potential impact of this proceeding on persons not parties to the waiver request, we believe it would be in the public interest to treat this case as a permit-but-disclose proceeding under the *ex parte* rules. See Sections 1.1200(a), 1.1206 of the Commission's Rules, 47 C.F.R. §§ 1.1200(a), 1.1206. Therefore, subsequent to the release of this *Public Notice*, *ex parte* presentations that are made with respect to the issues involved in the subject waiver request will be allowed but must be disclosed in accordance with the requirements of Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b).

For further information, contact Roberto Mussenden, Esq., Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau (Tel. (202) 418-0680, TTY (202) 418-7233), or via email at rmussend@fcc.gov.

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.

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